

1 APPEARANCES: (Continued)

2 **For the Defendant:**

R. Christopher Cataldo
JAFFE RAITT HEUER & WEISS
27777 Franklin Road, Suite 2500
Southfield, Michigan 48034
(248) 351-3000

Jonathan E. Siro
JAFFE RAITT HEUER & WEISS
28 West Adams Avenue, Suite 1500
Detroit, Michigan 48226
(313) 800-6500

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

TABLE OF CONTENTS

<u>MATTER</u>	<u>PAGE</u>
<u>MOTION FOR TRO AND PI</u>	
Motion by Mr. Koering.....	7
Response by Mr. Cataldo.....	28
Reply by Mr Koering.....	40
Certificate of Court Reporter.....	45

1 Detroit, Michigan

2 Thursday, December 22, 2022

3 2:07 p.m.

4 - - -

5 THE CLERK: The United States District Court for the
6 Eastern District of Michigan is now in session, the Honorable
7 Denise Page Hood presiding.

8 Calling Case Number 22-12854, Palltronics, Inc. versus
9 PALIoT Solutions, Inc.

10 Appearances, please, counsel, starting with the
11 Plaintiff.

12 MR. KOERING: Good afternoon, your Honor.

13 THE COURT: Good afternoon.

14 MR. KOERING: Good afternoon, your Honor. This is
15 Jacob Koering on behalf of the Plaintiff, along with my
16 colleague, Joel Bryant. We're appearing here. I also have on
17 the phone -- I believe I caught the names, but Mr. Marc Swanson
18 and Mr. Steve Roach as well.

19 THE COURT: Okay. Good afternoon to all of you.

20 MR. CATALDO: Good afternoon, your Honor. For the
21 Defendants, Christopher Cataldo. I'm here with my partner, Jon
22 Sriro. And they should be connected on the phone, client
23 representatives Paul Barry and Mr. David Distel.

24 THE COURT: How do you spell Distel?

25 MR. CATALDO: D-I-S-T-E-L.

1 THE COURT: Okay. And who was the other person?

2 MR. CATALDO: Paul Barry, B-A-R-R-Y.

3 THE COURT: Okay. Good afternoon to all of you as
4 well.

5 Who's in Chicago?

6 MR. KOERING: That would be me, your Honor.

7 THE COURT: Is it already snowing there?

8 MR. KOERING: It is, yes.

9 THE COURT: Okay. All right.

10 MR. KOERING: I have to thank you very much for your
11 kind consideration in moving this. I appreciate it.

12 THE COURT: I hope it snows on you and goes straight
13 to Cleveland, so ...

14 Okay. I have here a Plaintiff's motion for a
15 temporary restraining order and preliminary injunction; is that
16 right?

17 MR. KOERING: That's correct, your Honor.

18 THE COURT: Okay. I'm ready to proceed.

19 MR. KOERING: Thank you, your Honor. As I said at the
20 introduction, my name is Jacob Koering. I'm one of the counsel
21 for Palltronics, the Plaintiff in this case. I had mentioned a
22 few of my colleagues on the way in are here. I also have on
23 the phone several of our client representatives, including --
24 and I apologize. I don't see them so I may miss one or two,
25 but Marty DiFiore and Damian Kassab who are both in the

1 leadership at Palltronics.

2 THE COURT: Okay.

3 MR. KOERING: So --

4 THE COURT: I should be -- I should have also -- well,
5 they're very welcome to listen in as well. I should have said
6 at the beginning that we need to complete the arguments by no
7 later than 3:30, okay, everything. All right.

8 MR. KOERING: Thank you, your Honor.

9 THE COURT: So does that mean you want to take how
10 long? Do you have the video or someone else?

11 MR. CATALDO: Your Honor, the Defendants have the
12 video, which is three minutes. It really shouldn't impact the
13 length of the hearing materially.

14 THE COURT: Okay. So how long are you going to take
15 Mr. -- is it Koering?

16 MR. KOERING: Koering. Yes, your Honor. I don't
17 anticipate me taking more than about a half an hour for our
18 initial presentation.

19 THE COURT: Okay. That's it. I'm sure you can -- for
20 your initial presentation.

21 Okay. And what about your, Mr. Cataldo?

22 MR. CATALDO: Your Honor, we think we can make our
23 presentation and response in a half hour as well.

24 THE COURT: All right. Very good. Let's go ahead and
25 go then.

1 MR. KOERING: Thank you, your Honor. We're here on
2 Palltronics' motion for a preliminary injunction. And
3 Palltronics' motion really seeks pretty straightforward relief.
4 We're asking the court to enforce the terms of a bankruptcy
5 sale order that was entered in the Eastern District of Michigan
6 Bankruptcy Court, but gave exclusive ownership and use of
7 certain assets of a company called Lightning Technologies, a
8 debtor in that bankruptcy proceeding, which those rights were
9 then given to our client, Palltronics, after winning the bid in
10 that case.

11 The assets in that bankruptcy proceeding included not
12 just trade secret assets, but also other kinds of intellectual
13 property, including confidential and proprietary information of
14 Lightning, all relating to a new and improved shipping pallet.

15 And so we're asking your Honor to enter an order
16 enjoining the violation -- any further violation of the sale
17 order in that bankruptcy court and to enjoin any ongoing
18 misappropriation of trade secret information related to the
19 trade secret assets of that company.

20 Now, there are two separate bases again to enjoin
21 PALIoT's conduct here. One is based on the sale order. I'll
22 discuss that separately. And then second is on trade secret
23 misappropriation.

24 Now, it's notable here that PALIoT claims that it is
25 not using the assets of Lightning or any of its trade secrets.

1 Assuming as much, this could be a short hearing. It should be
2 a straightforward request to have an injunction issued that
3 would enjoin the use of these assets, or of the trade secret
4 assets of Lightning purchased through Palltronics if, in fact,
5 PALIoT is not using those assets. So we would just raise that
6 up front.

7 Now, before I get into the substance of the argument
8 here, your Honor, I think it's important to get a little bit of
9 background in terms of how we got here. The story here when
10 you boil it down is not complicated. In February of 2021
11 Lightning Technologies was placed into Chapter 7 involuntary
12 bankruptcy by its creditors. Now, Lightning Technologies was a
13 -- at its core, a technology company. It spent five years,
14 five plus years and 25 million dollars developing a shipping
15 pallet.

16 Now, I know that doesn't sound very interesting on its
17 face, but the reality is that shipping pallets play a core
18 component role in our product supply chain. And as we've all
19 seen recently, the product supply chain is a key aspect of many
20 parts of our economy and our business. As a matter of fact,
21 there are two billion pallets that are used in the United
22 States alone every year -- that's a B. So that's a lot of
23 product that's being shipped around the United States. And
24 it's used by companies to stack their goods on top of them and
25 ship them from place to place.

1 Lightning's development process was focused on
2 creating a very special kind of shipping pallet, one that
3 improved on shipping pallets in the past, one that was
4 reusable, long-lasting, strong and trackable. All of those
5 features were key to a particular kind of business called
6 pallet pooling in which a company like our client, Palltronics,
7 rents its pallets, its shipping pallets, to manufacturers and
8 other producers who then stack their goods on top of those and
9 ship those pallets through the system.

10 Now, what's important about that process is that the
11 pallets need to meet certain requirements for these
12 manufacturers to use them. They have to be strong and
13 resilient so that they can be used multiple times. Otherwise,
14 they're wasting all of that effort renting out the pallets.
15 And then they need to be recoverable. So they need to be able
16 to be found throughout the system so that the renting company,
17 the pallet pooler, can go back and get those pallets. All of
18 the features that Lightning designed over its five plus years
19 of existence were aimed at trying to create an improved pallet
20 for that particular application.

21 Now, despite all of this investment, which again five
22 plus years and 25 million dollars, at the end -- at the time it
23 was put into bankruptcy Lightning did not have a revenue
24 stream. It was not successful yet in terms of getting
25 companies to rent its pallets. It wasn't ready to go. And so

1 it was at that time essentially an IP company. It had
2 developed this pallet, it was almost ready to go, but it didn't
3 have any revenue stream. So going into bankruptcy what
4 companies were going to be buying was essentially the IP assets
5 of the company, a few hard assets.

6 Now, PALIoT was formed just one month prior to the
7 bankruptcy in this case, meaning that they didn't exist before
8 about two years ago. Both PALIoT and Palltronics participated
9 in the bankruptcy process, meaning they had the opportunity to
10 comment upon and object to the decisions and the rulings of the
11 judge in that bankruptcy case.

12 Now, notably -- and I should say at the end of that
13 bankruptcy proceeding Palltronics was successful in bidding on
14 the assets of Lightning Technologies and purchased them subject
15 to a sale order from the bankruptcy court for five million
16 dollars. PALIoT was the secondary bidder, the backup bidder.
17 Their bid was 3.2 million dollars, or about half of -- just
18 over half of what Palltronics' bid was.

19 During that bankruptcy proceeding, and what's I think
20 notable here, is that PALIoT did not make any of the
21 allegations in front of that court that they're making here.
22 PALIoT did not state to the bankruptcy court that Lightning's
23 assets did not include intellectual property, but only included
24 hard assets, for example. And they never claimed that the core
25 technology of that company was that the pallets and its use was

1 somehow all in the public and, therefore, not an asset to the
2 company. Instead it stayed silent, it bid for the assets, and
3 then when it lost it stayed on as the backup bidder hoping that
4 Palltronics would fail to make its payment.

5 Now, when Palltronics completed its process and made
6 the payment that it promised in the bankruptcy process, PALIoT
7 hired ex-Lightning employees. And then less than a year after
8 it was founded and after it lost its bankruptcy proceeding it
9 started telling the world that it could provide essentially a
10 nearly identical pallet to the same customers and the same
11 purposes as Lightning using the same business method that
12 Lightning had identified. In other words, PALIoT lost the bid,
13 decided not to bid more, and then hired ex-Lightning employees
14 to duplicate the product and business of Lightning.

15 Now, what's important here is -- what one important
16 piece of information here is that the bankruptcy court here has
17 already held PALIoT in contempt for exactly this kind of
18 behavior. In early 2022, Palltronics became aware that someone
19 had changed the information on Lightning's Linked In page and
20 falsely represented connection between Lightning and PALIoT.
21 Specifically they included on there a link to PALIoT's website,
22 it included a contact number of which somebody could contact
23 PALIoT from the Lightning Linked In page, and it made other
24 changes to make it look like Lightning and PALIoT were related
25 companies.

1 So Palltronics filed a motion with the bankruptcy
2 court, and much like here PALIoT made some arguments trying to
3 claim that it didn't do anything wrong. It even went so far as
4 to blame Palltronics as being the party who made these changes
5 to the Lightning page to direct customers to PALIoT.

6 Now, Palltronics did its job, asked for discovery, and
7 then took discovery from Linked In to find out what happened.
8 And it turned out that the discovery from Linked In showed that
9 one of the co-founders of PALIoT, Mr. Rich MacDonald, who is
10 their chief technology officer and chief sustainability
11 officer, he was the one who logged in and made those changes.

12 So even as far as I think it was July of 2021 PALIoT
13 was trying to represent to the world that it could do the same
14 business as Lightning. The court held PALIoT in civil contempt
15 for violating the bankruptcy stay based on this conduct and it
16 granted Palltronics its attorney fees, but did not foreclose
17 any further damages related to that.

18 It's clear PALIoT has an interest in showing to the
19 world that it is engaged in the same business as Lightning was,
20 but it cannot do so without violating the terms of the
21 bankruptcy sale order, without violating the rights that
22 Palltronics legally bought out of the bankruptcy case.

23 But let me turn to the sale order. The most
24 straightforward basis for enjoining PALIoT's conduct here is
25 for the court to enjoin PALIoT from any further violations of

1 the sale order by its use of any assets of Lightning. Now, I
2 can't capitalize the word "assets" when I speak it, but the
3 word "assets" in the sale order has a capital A to it and it
4 has a meaning. And what does the sale order say about the word
5 "assets"?

6 Well, the sale order granted Palltronics exclusive use
7 and ownership of assets of Lightning which were broadly defined
8 as, quote, anything that was used, usable or capable of being
9 used in the business. So what that means is that PALIoT
10 obtained -- I'm sorry, Palltronics obtained significant assets
11 through this bankruptcy proceeding and brought assets relating
12 to Lightning's business, and that makes sense. After all, the
13 purpose of a bankruptcy proceeding is to compensate creditors
14 of the debtor company. And in a Chapter 7 provision it's to
15 sell the assets of the company for the highest possible value
16 to compensate those creditors the most that you can.

17 It makes sense that a court would want to give broad
18 rights to the party purchasing the assets on a bankruptcy,
19 because then they will pay the most for those assets. If on
20 the other hand it were to allow another bidder as part of that
21 process to instead of bidding on the assets instead hire
22 ex-employees of a debtor company and then just duplicate the
23 business afterwards, it would undermine the bankruptcy process
24 and lower the value of the assets that are purchased through
25 that process.

1 Now, that's not just Palltronics saying that. It's
2 Judge Tucker and the bankruptcy court who said this explicitly.
3 When he issued his sale order in May of 2021, he -- it had two
4 pieces. It had multiple pieces, but the two most important
5 here are it had the sale order itself in which the bankruptcy
6 court authorized the sale of the assets to Palltronics. And
7 then it had an asset purchase agreement in which the details of
8 that purchase were laid out.

9 And that language that I read to you before about the
10 purchase of anything that was used, useful or capable of being
11 used, that comes from the asset purchase agreement, which is,
12 for your Honor's reference, at Exhibit 4 to the Complaint, Page
13 ID 338. And what the sale order says is that those assets were
14 to be, quote, transferred to buyer free and clear of any and
15 all interests, which for the intellectual property assets which
16 were part of what was purchased the sale order defined that as
17 any other claim or interest that might impair either the title
18 to or the value of that intellectual property.

19 And, as Judge Tucker stated in that order, he said the
20 buyer would not enter into the final APA or consummate the
21 transaction under the final APA unless the assets are
22 transferred to buyer free and clear of any and all interests
23 other than assume liabilities in respect to assumed contracts.
24 A sale of the assets other than one free and clear of all
25 interests would yield substantially less value for the

1 bankruptcy estate.

2 And that's what we have here, the -- if a bidding
3 party like PALIoT were allowed to simply hire ex-employees of
4 the debtor and then take those assets through those employees
5 for their own use, it would undermine the value of the
6 intellectual property that was purchased and would yield
7 substantially less value and creates an issue here.

8 Now, what we know is based on the testimony -- based
9 on the website of PALIoT that just one year after it was
10 founded it was advertising to the world that it was able to
11 provide a nearly identical pallet product just a year after the
12 bankruptcy bid. The fact that it did so with nine plus
13 ex-Lightning employees in its leadership team demonstrates how
14 they got there. They didn't spend five years of time
15 developing this pallet product. They didn't spend 25 million
16 dollars to develop this pallet product. Instead, they hired
17 ex-Lightning employees, they mined them for information and
18 then they made an identical pallet product, or some
19 substantially identical pallet product.

20 It's notable here that PALIoT does not provide any
21 evidence of independent development. It does not claim --

22 THE COURT: I'm sorry. Does not provide any evidence
23 of what?

24 MR. KOERING: Independent development.

25 THE COURT: Okay.

1 MR. KOERING: That it spent its own time and resources
2 and effort to independently come up with this pallet or to
3 independently come up with the improvements that are part of
4 the pallet. It does not list as any evidence its own R and D
5 costs, if they exist, or explain how it came up with the
6 substantial identical pallet without relying on Lightning's
7 assets.

8 Now, we would point to, your Honor, a chart that is
9 included in the evidence that we submitted with our opening
10 bid. This is Exhibit 1 to our motion, which is the declaration
11 of Roland Heiberger. Mr. Heiberger is one of the key
12 development people at Lightning and he also works with
13 Palltronics.

14 At paragraphs 31 to 33 of his declaration, which are
15 at Page ID 643 and 45 on the docket, he outlines and compares
16 the Lightning product and the advertised functionality and
17 structure of PALIoT's product. And you see a one-to-one
18 comparison of things like, for example, they both have the same
19 hybrid wood and sprayed plastic structure. They both have a --
20 they're both made with the same kind of plastic -- sprayed
21 plastic material.

22 And I was going to show this, but I want to be
23 cognizant of the court's time. I direct you to that chart,
24 which does have that comparison, and I'd note this. For the
25 most part, Palltronics does not -- or PALIoT does not dispute

1 that their product includes each one of these elements. Now,
2 again this is the elements that PALIoT advertises on the
3 website that their product has.

4 But, for example, one of the allegations that they
5 make, that PALIoT makes on its website, is that PALIoT's
6 product is made from an engineered wood substrate. And what
7 the testimony here is is that Lightning spent time and money
8 developing and selecting a list of acceptable woods and sources
9 of wood that would work with the strength-to-weight ratio
10 required for this pallet to be used in this pallet pooling
11 business.

12 One of those types of wood is, as PALIoT's own witness
13 admits, this is Mr. Chaskielberg, his declaration in Exhibit J
14 to PALIoT's response, he states that one type of wood that was
15 used at Lightning was birch, and it turns out that PALIoT is
16 also using birch wood.

17 Similarly, there is a -- PALIoT lists on its website
18 that it uses a proprietary polyurea coating. Now, this is
19 plastic, and this is the plastic that is sprayed on top of
20 these pallets in order to give them strength and rigidity.

21 In its response at Exhibit M, Jacob Gabel, again on
22 behalf of PALIoT, admits that it's -- PALIoT's plastic is the
23 same basic plastic that was used at Lightning, which is this
24 polyurea plastic.

25 Now, what's important here is less that there is a

1 one-to-one comparison between these products basically for the
2 structure of them than it is the fact that PALIoT was trying to
3 copy the same product that Lightning was making. And, in the
4 context of the sale order, it's impossible for them to do that
5 without using the broadly defined assets under the sale order.

6 Now, knowing that there's a comparison between these
7 two products out there in the evidence is helpful, but it's
8 also notable to know that not only are these products
9 identical, but that PALIoT is advertising to the world some of
10 the features and capabilities of the Lightning product as a
11 basis for its own.

12 So, for example, I point you to the declaration of
13 Ellwood Hunt, which is attached as Exhibit 4 to Plaintiff's
14 motion, and specifically to paragraph 10 of that declaration at
15 Page ID 716. Mr. Hunt testified as part of his testimony that
16 he in observing the information that PALIoT advertises about
17 its product that PALIoT claims to have that its pallet has a
18 ten-year life span and that its pallet can meet the vigorous
19 standards of a particular standard called ISO 8611.

20 So what's important about this is those two standards
21 are some of the key features that Lightning developed and spent
22 years developing as part of its product. And as Mr. Hunt
23 testified, it takes a significant amount of time and effort to
24 get your product testified -- tested and verified to have a
25 particular life span and to be compliant with particular

1 standards, including ISO 8611. There's no evidence that PALIoT
2 has ever done that testing. Instead, it appears that they're
3 relying upon the testing done by Lightning for the nearly
4 identical product to say that their own product can meet those
5 standards.

6 Now, based on these comparisons it's clear that
7 PALIoT's product is using the same material, the same pallet
8 structure, the same manufacturing processes and the same
9 vendors as Lightning. Their only argument is that for some of
10 these identicalities they claim they're not trade secrets. But
11 for the purpose of the sale order, that argument is irrelevant.
12 It doesn't matter if they are trade secrets under the law. It
13 matters whether or not they are assets as defined under the
14 sale order.

15 So it doesn't matter, for example, if some general
16 information was disclosed about these products in
17 advertisements or in media. It doesn't matter that somebody
18 may have disclosed that their product is coated with a plastic
19 when the spraying process we're doing was not disclosed. It
20 doesn't matter, for example, that the idea that these pallets
21 can be used by companies to save money, by getting carbon
22 credits, that doesn't matter so long as how the companies can
23 save that money using carbon credits it's not also disclosed.

24 It also doesn't matter if Lightning may have hired
25 third parties to work with it in those development processes.

1 So, as Mr. Richard Crow testifies in his declaration, and this
2 is -- I believe it's Exhibit 3 to our motion and specifically
3 paragraph 9 at Page ID 709. Mr. Crow testifies that there were
4 regularly nondisclosure agreements and confidentiality
5 agreements entered into with third parties. And when those
6 third parties were hired to work with Lightning they were done
7 so under those kinds of confidentiality agreement.

8 And in general, as you can imagine, if a company pays
9 for a third party to work with them as to a technology that the
10 ownership of that technology then transfers to the party who
11 pays for that technology, and that's what happened with
12 Lightning.

13 Now, from our perspective, this is a pretty
14 straightforward way for this court to find an injunction
15 related to enjoining the conduct of PALIoT here. Specifically,
16 an injunction should issue which provides that PALIoT shall be
17 enjoined from using the media assets of Lightning in its
18 business, and it can be that simple.

19 And because PALIoT is selling substantially an
20 identical product, we believe that they can't sell that product
21 without using those assets, but that kind of an injunction is
22 something that would be consistent with a sale order and would
23 be appropriate under the law. So that's one basis for an
24 injunction.

25 Your Honor, I can pause here for a minute if you have

1 any questions with respect to that. Otherwise, I'll move on to
2 trade secrets as well.

3 THE COURT: No, no. You can go on.

4 MR. KOERING: Thank you, your Honor. A second basis
5 for an injunction here, a preliminary injunction, is PALIoT's
6 ongoing misappropriation of Lightning's and thus Palltronics'
7 trade secret information. Again, this is information that was
8 purchased as an asset by Palltronics out of the bankruptcy
9 proceeding.

10 Now, in our Complaint and in our motion we've
11 identified three general categories of trade secrets. The
12 material, equipment and selection and sourcing assets, pallet
13 assembly and manufacturing assets, and pallet tracking and use
14 assets. These are all assets that meet the definition of a
15 trade secret under Michigan law and under federal law, because
16 these are assets that derive independent economic value from
17 not being generally known. These are features that were
18 developed internally at Lightning under confidentiality
19 protections, and they're information that is the subject to
20 reasonable efforts under the circumstances to maintain their
21 secrecy. And there's two pieces of evidence we will point to
22 on that, your Honor.

23 First, the declarants that were submitted on behalf of
24 Palltronics, the Plaintiff, all identify that confidentiality
25 was a major concern at Lightning, that the employees and the

1 management understood that the details of the pallet and its
2 use were confidential information of Lightning and should be
3 treated as such. And I point to Mr. VanBynen's declaration at
4 paragraph 4 to 6, Mr. Heiberger's declaration at numerous
5 places, including paragraphs 15, 17, 19, 29 and 32, Mr. Hunt's
6 declaration at 3, paragraph 3, and Ms. Dunahay's declaration at
7 paragraphs 1 and 2.

8 And while PALIoT responds to this with witness
9 testimony offering unfounded legal opinions about whether
10 something was a trade secret or not, they don't dispute this
11 expectation of confidentiality at Lightning. And so there
12 is -- there was an expectation of confidentiality at Lightning,
13 and the parties and the individuals at Lightning treated
14 information as confidential there.

15 And we note that we had identified one of the
16 co-founders of PALIoT was Mr. Rich MacDonald. As an exhibit to
17 Mr. VanBynen's declaration, he also attached a nondisclosure
18 agreement, which shows a good example of the kinds of
19 nondisclosure agreements that Lightning was entering into with
20 third parties and with its employees.

21 PALIoT -- and so this is information that was subject
22 to confidentiality, and it was also information that was
23 valuable, and we know that because of the bankruptcy process
24 here. In the bankruptcy process, the assets of Lightning
25 Technologies included trade secrets, explicitly including in

1 the sale order under Schedule 2.1.4 of that order. And those
2 trade secrets, amongst others, were what the parties paid
3 millions of dollars to acquire.

4 We believe that there are a lot of trade secrets
5 potentially available here, but I want to focus on two just
6 given time and wanting to focus on clear issues here for the
7 court in this hearing. So the two trade secrets I really want
8 to focus on are the spraying process for the pallets and the
9 carbon credit model that was developed for those products at
10 Lightning.

11 So focusing on the spraying process first, the
12 spraying process for these pallets is actually a pretty
13 complicated process given the nature of the pallet and the
14 purpose of the spraying. Mr. Richard Crow and Mr. Roland
15 Heiberger testified in their declarations about the development
16 of that process and how it went.

17 Part of the reason it's a complicated process is
18 because of the desired end structure of the really solid, rigid
19 pallet made of this lightweight wooden core. So that
20 lightweight wooden core is made up of a top surface and a
21 bottom surface with nine individual supports in the middle.
22 That makes for a pretty complex structure, especially because
23 in order for this pallet to achieve the rigidity that you want
24 you have to evenly and completely spray not just the top and
25 the bottom, but inside of those individual supports that --

1 it's a very complex spraying process.

2 It's made more complex by the fact that this spraying
3 process, this polymer that we're spraying on top, is actually
4 not a polymer when you spray it. It's made of two different
5 reactive chemicals that when they spray they actually react in
6 the air as they're being sprayed so that they turn into a
7 polymer that they out, polymerize on the surface of the pallet
8 as they're being sprayed. So how far the nozzle is from being
9 sprayed, the pattern that it would be sprayed and all of the
10 complicated maneuverings of the wooden pallet in order to be
11 sprayed make that process very complicated.

12 And, of course, in order to produce a significant
13 number of these pallets in a short period of time this has to
14 be done at high speed. So the spraying process involved
15 rotating and maneuvering a wooden pallet and rotating these
16 complicated spray heads for robots. The end result bottom line
17 is that there was a complicated set of computer code for
18 managing and moving these pallets through the system and in
19 order to make sure that you could create a end product that was
20 sprayed appropriately.

21 Here there is undisputed evidence that PALIoT took in
22 using this robot coding, specifically -- and I'm pointing you
23 to the declaration of Richard Crow, Exhibit 3 at paragraphs 12
24 to 15. He describes that in April of this past year
25 Palltronics met with a robotics company called FANUC. And

1 FANUC worked with -- did work with Lightning and is also
2 working with, as they admit in their evidence, is also working
3 with PALIoT.

4 The purpose of the meeting in April was to conduct a
5 study as to the movement of the arms of a robot within the
6 spraying system for Palltronics. And when they went to this
7 meeting Mr. Crow noted that there was a preliminary
8 presentation that was provided by FANUC. And in that
9 preliminary presentation it had a presentation for Palltronics,
10 but it also had a identical presentation for PALIoT.

11 So what he observed was that FANUC, this company that
12 does robot work, had both evidence -- and it had a study for
13 Palltronics and it had a similar study, if not an identical
14 study, for PALIoT. To accomplish that study, you have to know
15 how the robots move in the space.

16 THE COURT: How do robots move in what? How the --

17 MR. KOERING: In the space that the -- I'm sorry, your
18 Honor.

19 THE COURT: Okay. I just didn't hear you.

20 MR. KOERING: I apologize. I'll try and speak a
21 little bit more slowly. The robots are placed into a spray
22 booth, and they have to move their arms within that spray
23 booth.

24 THE COURT: Okay.

25 MR. KOERING: So in order to know where those arms are

1 going to move you have to know where the pallets are going to
2 be placed and moved within that spray booth during the spray
3 process. They call it a reach study. But in order to do that
4 reach study you need to know where the pallets are going to be
5 moved and where and when and understand the programming of the
6 robot to do that. You need the robot programming to be able to
7 do that reach study.

8 And when Mr. Crow met with FANUC they had already done
9 this preliminary simulation suggesting they already had the
10 robot code. Now, this is the same robot code that was
11 developed at Lightning and that Palltronics purchased through
12 this bankruptcy system -- bankruptcy process.

13 Now, when Mr. Crow asked FANUC do you need my computer
14 code to complete this reach study, FANUC said, no, we're fine,
15 and they said they didn't because they already had the code.
16 Now, what that means is that they had done a reach study for
17 PALIoT and they had done a reach study for Palltronics, and
18 then they said they already had the code necessary to deal with
19 the -- to understand the movement of the robots in that system.
20 So a reasonable conclusion, the only reasonable conclusion from
21 that, is that they got that code from somebody at PALIoT.

22 The second major trade secret that is at issue is the
23 carbon credit model, and this is a feature of the business use
24 system at Lightning for how they were advertising to their
25 customers how they could save money and benefit from -- they

1 could save money and benefit from the lesser weight of this
2 composite system, the composite pallet.

3 What Lightning did -- what the individuals at
4 Lightning did is they developed a system for parties using this
5 pallet to gain carbon credits for shipping these pallets over a
6 period of time -- over a length of distance. And Lightning
7 developed this methodology to reduce their customers' costs and
8 to provide benefits for them.

9 Now, PALIoT does not dispute it is using this model.
10 As a matter of fact, it's on its website. It says that it is
11 using this carbon credit model. PALIoT's only defense is that
12 it claims that this carbon credit model was advertised, and
13 this is at their response at Pages 17 to 18. But even a
14 cursory look at the evidence it cites showing that it -- it
15 shows that all that was discussed was a very high level concept
16 of carbon credits. The specific methodology to how was not
17 disclosed. Instead, that was taken with -- by the ex-Lightning
18 employees, including Mr. Rich MacDonald. Now, these are two
19 key assets of Lightning that were purchased by Palltronics and
20 that are nevertheless clearly and unambiguously being used by
21 PALIoT right now.

22 So I know I'm coming up on a half an hour, so I want
23 to be sensitive about the time, but based off of these two
24 bases, the clear definition and broad definition of assets
25 under the sale order and the clear and unambiguous use of at

1 least these two kinds of -- these two particular trade secrets
2 from Lightning, there should be an injunction issued that
3 prevents the further violation of a sale order and that
4 prevents the use of any trade -- misappropriation of any trade
5 secret of assets purchased by Palltronics from Lightning during
6 the bankruptcy process.

7 THE COURT: Okay.

8 MR. KOERING: That's my presentation. If you have any
9 questions, I'm happy to answer them.

10 THE COURT: Okay. I don't have any questions at this
11 time. Let's hear from the other side.

12 MR. KOERING: Thank you.

13 MR. CATALDO: Thank you, your Honor. Christopher
14 Cataldo for PALIoT.

15 Your Honor, we dispute virtually every one of the
16 factual assertions that they have made. We have set forth
17 detailed affidavits from not only representatives of PALIoT,
18 but from the former CEO of Lightning who has thoroughly
19 explained how the items they're claiming here as their assets
20 were disclosed publicly.

21 We've laid out in detail, contrary to what counsel
22 said, how we have independently derived and created all of
23 these items and which -- virtually all of which the things
24 they're talking about are technology that are owned by third
25 parties. It wasn't owned by Lightning. It was never purchased

1 by Palltronics. And, your Honor, we request an evidentiary
2 hearing if you think there's a dispute on these issues of fact.
3 We have rebutted every single point that they've made and then
4 some.

5 So let's get into some of the specifics. Lightning
6 was a troubled company, was forced into bankruptcy from its
7 creditors. It never created a functional process. It never
8 completed a process to build this pallet, and it was never
9 actually in business selling pallets. It was still in the
10 development stage when it was shut down.

11 The sale of assets was primarily -- and Mr. Owen lays
12 this out in his declaration. He was the former CEO of
13 Lightning. It was -- virtually all the five million is
14 attributable to physical assets. They sold machinery,
15 equipment, inventory. Yes. Is there some intellectual
16 property that was included? Yes, there is, and it's on a
17 schedule. There's a specific schedule to the asset purchase
18 agreement that we're going to look at in a minute. And, if
19 it's not on the schedule, then it wasn't purchased by
20 Palltronics.

21 And the fundamental rule, your Honor, that I think is
22 applicable here is that the Plaintiff in this case could not
23 have bought anything greater than what Lightning had, okay.
24 Lightning, if it didn't have that asset, it couldn't have sold
25 it, and they're trying to grossly overstate what, in fact,

1 Lightning had as if it had some sort of a monopoly on this
2 smart pallet when there were many people -- and we're going to
3 look at a video in a minute -- who were already in this space
4 doing the very same thing they're somehow claiming was
5 proprietary to them.

6 But, your Honor, they have seriously misrepresented
7 what's on the schedule in terms of what they bought. And, if
8 we could bring the schedule to show you the language, because
9 that language about information used or usable it doesn't mean
10 what they say it means, because this is what they purchased.

11 THE COURT: Is this Schedule 2.1.4?

12 MR. CATALDO: It is.

13 THE COURT: All right. Okay. All right.

14 MR. CATALDO: So what they bought, all of the debtor's
15 and the estate's entire right entitled and interest and into
16 the following assets. So only to the extent the debtor, which
17 is Lightning, had rights in these things were they sold.

18 And the section that they're talking about is Section
19 B, "Any and all trade secrets or similar protection for
20 confidential information." Then it says "including proprietary
21 business," et cetera, et cetera.

22 And within that parenthetical relating to or
23 describing the trade secrets there is this language about
24 information used or capable of being used, but that's only if
25 it's a trade secret or similar protection. They don't have any

1 rights or they don't have any protection above and beyond what
2 would qualify as a trade secret or otherwise protectable at
3 law. So for them to just say somehow that if there's general
4 knowledge or information in the industry that Lightning was
5 using, that somehow they have a monopoly over public
6 information or information that's generally known in the
7 industry that wouldn't qualify as a trade secret, that is
8 absolutely a gross overstatement, because Lightning never had
9 that. Lightning never had a monopoly. It didn't have much of
10 anything in terms of actual trade secrets in this realm.

11 And, your Honor, I would ask -- I hope the court
12 reviewed the declaration under oath of Mr. Owen who was the CEO
13 of Lightning. This was his project, developing this pallet.
14 And he goes through and explains in detail why virtually
15 everything counsel just talked to you about before a few
16 minutes ago was not a trade secret, or how it was derived from
17 intellectual property of third parties who still have those
18 rights, and we're going to talk about that in a minute.

19 And so the idea that counsel just presented that
20 somehow Lightning had a monopoly on information that pallets
21 that have these basic features, which is a wood core, that has
22 a polymer coating, that is -- that has smart technology, is
23 traceable in the industry, that's something that's been done
24 for years and is available.

25 There's a You Tube video that we referenced it in our

1 materials for another company that's been doing this for years,
2 and that's the video I want to play to the court right now.

3 If you would play that, Jon.

4 (At 2:53 p.m. at this time video is played. Back on
5 the record at 2:57 p.m.)

6 MR. CATALDO: So the point of that video, your Honor,
7 is everything that they've talked about a moment ago is already
8 being done. That video is out there for six years. There's
9 other companies been doing this. There are other
10 manufacturers.

11 Counsel talked about this chart of general features.
12 It's like saying that Tesla has stolen all of Ford's ideas,
13 because Tesla's cars all have four wheels and so do -- and
14 Ford's. It's ridiculous. Every pallet in the industry has the
15 same basic features. And they just talked about how Ahrma's
16 pallet who's been out there for six years has all of these same
17 basic features as well. That's not proof of anything, your
18 Honor. And we laid out in our response how every single one of
19 these items that they've talked about was derived independently
20 by us and/or was disclosed to the world by Lightning.

21 For example, they do make a big deal in their motion
22 papers about how they use this proprietary wood core. Well, as
23 Mr. Owen explains, and we attached multiple interviews he gave
24 to the press where he openly talked about how they -- where
25 they were getting this wood, this specific Brazilian wood, the

1 public documents that are available that show exactly what wood
2 they were buying, where they're buying it. But, your Honor, we
3 don't even use that wood. We attached declarations from our
4 people who say we buy different wood from different suppliers.
5 But the fact that they're using a wood core, your Honor, is not
6 a trade secret, it's not an asset. It's not violative of
7 anything.

8 Now, they make a big deal in their papers, and counsel
9 didn't say much about it here, about the plastic coating.
10 Every pallet in the industry has a plastic coating. Now, the
11 one that they use and they claim these special rights in it is
12 called Exobond. And Mr. Owen in his declaration that's
13 attached talks about how they created it with two
14 manufacturers, one called BASF and another one called Ultimate
15 Linings. And Lightning indeed has the right to prevent one of
16 those companies called Ultimate Linings from selling that
17 specific polymer to any other company, but that's it. He
18 acknowledges that Ultimate Linings is free to sell different
19 polymers, different plastics, to anyone else, your Honor.

20 And actually, Mr. Owen in his declaration says that
21 these polymers are really no different than the polyurethane if
22 you went down to Home Depot and bought a can of polyurethane
23 for wood. It's pretty much the same stuff. And there are
24 multiple manufacturers who make this material, and you saw it
25 in that video. There's a huge conglomerate. It's called BASF.

1 It's a multi-national billion-dollar company that has an
2 enormous product line of making these polyurethane components.

3 We don't use the same one, your Honor. We
4 independently developed one that's just a polyurea. It's
5 completely different blend and manufacturer that we
6 independently created on our own. We're not using the one that
7 Lightning was using. We didn't take anything from them and any
8 of their assets. The fact that every pallet in the industry
9 has a coating on it, your Honor, is not a trade secret.

10 They also constantly talk about the spray technology.
11 And guess what? Mr. Owen deals with that. He was instrumental
12 in creating for Lightning the spray technology that they're
13 using. Lightning didn't create it. They bought it from a
14 company called ALSI. ALSI has developed the spray technology
15 in connection with the OEM manufacturers. This is the basic
16 technology. And you saw some of it in that video where they
17 have the robots that are spraying. That's the technology
18 that's used by Ford, GM, Chrysler to spray paint on cars.
19 That's what ALSI does. They create that spray system.

20 And what happened was ALSI changed the system to be
21 able to spray these polyurethanes. And ALSI is seeking a
22 patent on that technology, not Lightning. They have no rights
23 in that technology whatsoever, nothing.

24 So my client, as is anyone is free to in the world,
25 went to ALSI, and we made an agreement with them for them to

1 create a technology -- for us to pay them for their technology,
2 nothing to do with Lightning. Lightning does not have any
3 rights in that technology whatsoever.

4 And so counsel made this big deal a moment ago about
5 these conclusions that they've leaked to about these codes.
6 And you saw the robot there on that video, and there are codes
7 that tell the robots how to move. They were set forth in the
8 affidavit of Mr. Owen. The codes are not the property of
9 Lightning. The codes are owned by the company that creates the
10 robots. In this case it's a company called FANUC.

11 And, in fact, let's have an evidentiary hearing on
12 this. We'll bring FANUC in to testify that they own the codes.
13 They're their codes. We didn't steal anything. We're not
14 using anything of Lightning's. We never have used anything of
15 Lightning, your Honor. And we're free, as anyone in the world,
16 to go to contract with FANUC and work out a deal with FANUC to
17 make robots and have them create and develop codes for us.
18 That is the free world and the free market.

19 And the other thing, counsel made this big deal of
20 these carbon credits. Again, the tracking of these pallets
21 through the internet and the use of this carbon credit model.
22 If you go back to the materials we submitted, Mr. Owen made
23 public statements explaining how all of this works and what
24 they're doing.

25 And, your Honor, again we'll have an evidentiary

1 hearing, and I'll put Mr. Barry and our people on the stand to
2 testify how what we're doing we've created using our own
3 third-party vendors and using their technologies, not anything
4 that Lightning is doing, nothing, your Honor. We are not using
5 anything that is theirs.

6 And, yes, was there a mistake that was made on that
7 Linked In page, which is social media that's not intellectual
8 property. Yes, there was. And the bankruptcy court dealt with
9 that. Mr. MacDonald improperly accessed a Linked In page and
10 he shouldn't have, but that has nothing to do with intellectual
11 property rights, because we haven't used any of their
12 intellectual property rights.

13 And so again, your Honor, we request an evidentiary
14 hearing, because they cannot prove anything. There is no
15 evidence of misappropriation whatsoever. They've made these
16 wild allegations of these -- leaping to these conclusions about
17 stealing things.

18 The only thing that they put -- there was one
19 declaration they attached to their brief where this gentleman
20 made an accusation against two people, Mr. Gruber -- and who's
21 the other one -- claiming that he said -- that while they were
22 working at Lightning, this is before they left the company,
23 they had certain information on their laptops. And he quote,
24 unquote suspected, that was it, suspected that they had kept
25 the information after they left the company. That's it.

1 That's the extent of it.

2 We've submitted declarations for both of those
3 gentlemen saying unequivocally not true, they didn't take
4 anything with them after they left Lightning, and they're not
5 using anything of Lightning's for PALIoT.

6 Counsel talked about how they have all this
7 confidentiality was so important, so important. Where are the
8 confidentiality agreements? They haven't attached any. There
9 was one attached, and that was for Mr. MacDonald. All of the
10 other people that they talked about they do not have signed
11 confidentiality agreements for them. No one is violating
12 confidentiality agreements. No one is using their information.
13 We're using information that's in the public realm that other
14 manufacturers are also using, and we're using information
15 derived from third-party vendors.

16 One more that counsel didn't mention, but they make a
17 big deal about it in their brief, that Lightning had been
18 developing the method for how it manufactures the pallets.
19 And again, we return the court's attention to Mr. Owen's
20 declaration. He was the CEO of Lightning who said they didn't
21 develop that, it was developed by a third-party vendor who
22 created that for them.

23 My client went to a different company. There are many
24 companies out there that manufacture -- that build assembly
25 lines. That's their business. And we used a company called

1 ATS. They have built a lot of assembly lines for automakers.
2 It's their technology that's being used.

3 And, your Honor, we have not used any technology on
4 any of these issues of Lightning, and this is a gross
5 overstatement of, you know, what's been happening here. I
6 mean, they filed this respectfully we think just because they
7 don't want another competitor in the marketplace, not because
8 we're using any information of theirs or anything that they
9 have any kind of a right to.

10 And so then in terms of irreparable harm, your Honor,
11 they haven't shown anything in terms of irreparable harm.
12 Remember, they're not functional. Their company isn't even up
13 and running. They're not selling. We don't know if they have
14 developed an operational system. We know that they bought the
15 Lightning system, which Lightning was -- before it went
16 bankrupt it never got that system to be functional, meaning it
17 wasn't actually running or building and didn't even have the
18 capability of building pallets.

19 THE COURT: And is your company doing that?

20 MR. CATALDO: We are also, your Honor, in the process
21 of trying to bring our pallet to market, and as of today's date
22 neither of these companies is actually selling a pallet in the
23 market.

24 THE COURT: And so is it helping you that you have
25 these Lightning employees that may have information that might

1 be proprietary?

2 MR. CATALDO: Well, your Honor, people are entitled to
3 make a living. And Lightning shut down, it couldn't pay its
4 employees, and people had to go find jobs. So, yes, some of
5 the people that did work for us used to work for Lightning, but
6 they're not violating any of their agreements, and they are not
7 doing anything other than using general know-how in terms of
8 it's available.

9 For example, Mr. Barry who founded the company he had
10 worked in the industry for years before he went and did
11 anything with Lightning. He was not an employee there. He was
12 a consultant for six months, did not sign as part of his
13 consulting work. He did not sign any kind of a nondisclosure
14 or noncompete agreement.

15 And again, we're not using any of their information in
16 terms of what we've done. We've done everything independently,
17 and that's why I'm asking for an evidentiary hearing on that so
18 we can show --

19 THE COURT: And what would you show at the evidentiary
20 hearing, that you've done everything independently?

21 MR. CATALDO: Absolutely, and or --

22 THE COURT: And how will you show that?

23 MR. CATALDO: Well, I will show that, because I'll
24 bring in, for example, Mr. Barry who will testify how all of
25 these items were created. I'll bring in the vendor on the

1 paint, spray technology to explain it's their technology and
2 how we went to them and are using their technology, not any
3 technology of Lightning. I'll bring in FANUC to explain how
4 the robot codes are theirs and how what we're doing is using
5 the proprietary technology of FANUC, not anything of Lightning.
6 I'll bring in Ultimate Linings, the people that developed the
7 polymer, to explain how what we're doing in terms of what the
8 product we're using is not the same polymer that Lightning had
9 limited rights in, and so on and so forth. I'll bring each and
10 every one of those. I'll bring them in, your Honor, and we'll
11 put them on the witness stand and show you how this was all
12 created independently, and that our employees are not using,
13 they didn't take with them, any proprietary information of
14 Lightning and they're not using it. And so we vigorously
15 dispute that, that anybody has misappropriated anything.

16 THE COURT: Okay. All right. Thank you.

17 Do you wish to have a very brief reply?

18 MR. KOERING: Just briefly I'd say two things. First,
19 I note that if indeed PALIoT is not engaged in any wrongful
20 behavior here then they shouldn't object to entry of an
21 injunction that would prevent them from using the assets of
22 Lightning as defined in the sale order or for using any trade
23 secrets of Lightning. So that -- again, as I said at the
24 beginning of this, this could be a short hearing if that's
25 really the allegation that's being made.

1 Second, you know, I know that we've heard a lot about
2 a lot of very broad statements about what everybody is doing in
3 the industry and what everybody is -- what is out there and
4 everybody must be doing. I would just say this. The essence
5 of trade secret law is not novelty. It is access to critical
6 information that belongs to a company and that is protectable
7 for that company.

8 If PALIoT were to say we are absolutely copying this
9 product from Ahrma, it would be a different issue, but they're
10 not. Again, if you take a look at the chart that Mr. Heiberger
11 put together, it's not just one or two things that were being
12 copied from Lightning. It's their whole business model and
13 their whole process. And it's because they gathered this
14 information from Lightning that's the problem.

15 And certainly we can talk about some other issues, but
16 that's the basic point. The issue here is access to
17 information from Lightning and using it in their business. And
18 that's the source of the problem here, not any sort of
19 third-party issues.

20 With that, I just want to be cognizant of the court's
21 time and I'll end there, unless you have any additional
22 questions, your Honor.

23 THE COURT: Well, Mr. Cataldo, Mr. Koering has thrown
24 out this wall to you twice about how if you're not in violation
25 why won't you agree to an injunction.

1 MR. CATALDO: Your Honor, because they've defined
2 assets. If you read their reply brief as simply being in the
3 industry, being in the business. If you're selling -- they're
4 claiming that their assets, based on what they said in their
5 reply, is that any pallet that has the same features. That
6 means if you have a pallet with a wood core, that you're
7 coating it with plastic and it has the ability to be tracked,
8 they claim that's their asset. And that's unsustainable,
9 because every pallet in the industry has those same features,
10 but they're claiming it here that that's their asset.

11 They're trying to put -- we're put out of business,
12 your Honor, if you grant this, because we are selling a pallet
13 that has common features with other pallets in the industry,
14 but we don't use their technology. If it was limited to
15 anything that is specific to their technology, that is truly a
16 trade secret, it wouldn't be an issue, but they've defined it
17 so broadly beyond what is in any legitimate sense a trade
18 secret.

19 And again, your Honor, I come back to another point.
20 They haven't shown that they actually have any trade secrets
21 regarding these items, because every single item that we've
22 talked about was actually created by a third party. For
23 example, the spray technology that they reference. They don't
24 have a trade secret on the spray technology. It's not theirs.

25 THE COURT: Okay.

1 MR. CATALDO: So, your Honor, they have the burden to
2 show this. I don't have the burden to not show it, which
3 you're kind of putting it on me.

4 THE COURT: No, I'm not swapping the burden. I just
5 wanted to you to respond to it since he came out with it two
6 times.

7 I interrupted you. Do you have more rebuttal, or I
8 guess it's a reply?

9 MR. CATALDO: Is that directed to me, your Honor?

10 THE COURT: No, no, that was not to you, because
11 you've had your opportunity.

12 Okay. Go ahead, Counsel.

13 MR. KOERING: Thank you, your Honor. I don't have
14 anything further to add except that to the extent that your
15 Honor is interested in some sort of a evidentiary hearing we
16 would ask for the entry of at least a temporary restraining
17 order in the meantime.

18 And to the extent that it matters, what we have asked
19 for in terms of an injunction is the capital A assets, which is
20 defined in the sale order, not by us. And counsel suggests
21 that he's fine with the definition of a sale order of assets
22 and the sale order under 2.1.4. So again, it suggests that
23 maybe an injunction is appropriate here based on that language.

24 MR. CATALDO: Your Honor, we are not conceding an
25 injunction is appropriate, because then no matter what we do

1 we'll be in here on countless contempt motions, because their
2 plan is to put us out of business. It is not to protect
3 intellectual property, your Honor.

4 And I would then request if we're going to have any
5 kind of an injunction it would have to be a bond, as I'm
6 entitled to under Federal Rule of Civil Procedure 65. But,
7 your Honor, respectfully until we have an evidentiary hearing,
8 there shouldn't be any type of preliminary order entered. This
9 is our position.

10 THE COURT: Okay.

11 MR. CATALDO: They haven't shown anything.

12 THE COURT: Well, thank you for your arguments. And
13 it's my expectation that I'll have something out to you next
14 week on Tuesday or -- Tuesday or Wednesday, all right.
15 Probably Wednesday, all right.

16 MR. CATALDO: Thank you, your Honor.

17 MR. KOERING: Thank you very much, your Honor. Happy
18 holidays.

19 THE COURT: All right. And so I hope everyone will
20 have a very lovely holiday. And hopefully, as I said, we won't
21 get that snow that's in Chicago.

22 All right. Thank you very much, and this matter is in
23 recess.

24 MR. CATALDO: Thank you, your Honor.

25 MR. KOERING: Thank you.

1 (The proceedings were adjourned at 3:15 p.m.)

2 - - -

3
4
5
6 CERTIFICATE OF COURT REPORTER

7
8 I, Sheila D. Rice, Official Court Reporter of the
9 United States District Court, Eastern District of Michigan,
10 appointed pursuant to the provisions of Title 28, United States
11 Code, Section 753, do hereby certify that the foregoing pages
12 is a correct transcript from the record of proceedings in the
13 above-entitled matter.

14
15
16 **s/Sheila D. Rice**

17 Sheila D. Rice, CSR-4163, RPR, RMR
18 Federal Official Court Reporter
United States District Court
Eastern District of Michigan

19 Date: 12/23/2022
20 Detroit, Michigan
21
22
23
24
25